

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CURTIS NICHOLS, et al.,

Plaintiffs,

-against-

N.Y.C.D.O.C.S. COMM. JOSEPH PONTE, et  
al.,

Defendants.

17-CV-2976 (CM)

ORDER

COLLEEN McMAHON, Chief United States District Judge:

Plaintiff Curtis Nichols filed this action on behalf of himself and 16 other prisoners.<sup>1</sup> Only one of the potential plaintiffs submitted a request for permission to proceed *in forma paupers* (“IFP”) and a prisoner authorization with the complaint; Nichols did not. And it was not clear which potential plaintiffs signed the complaint itself.

On May 12, 2017, the Court directed, within thirty days of the date of that order, that (1) all Plaintiffs complete and submit a declaration stating that they have read the complaint and are plaintiffs in the action; and (2) all Plaintiffs either collectively pay the \$400.00 in fees required to file a civil action in this court or each submit an IFP application and prisoner authorization form. That order specified that any plaintiff’s failure to comply would result in his dismissal from the complaint. *See* ECF No. 4.

Plaintiffs Curtis Nichols, Alfonso Adjei, Leonard Freeman, Brandon Robertson, Wesley Johnson, and Angel Abrams have all submitted completed IFP applications, prisoner authorizations, and declarations. Plaintiffs Avery Fortner, Darnell Wint, Rigoberto Cardenas, Kevin Crocker, Joseph Howe, Arthur Nichols, Christopher Rodriguez, Jordan Gamble, and

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<sup>1</sup> On June 26, 2017, the Court received a letter from Curtis Nichols indicating that he wished to proceed as the lead plaintiff.

Ernest Langston did not submit anything to the Court. Orders sent to Crocker, Langston, Howe, Wint, and Arthur Nichols were returned to the Court because they had been discharged; none of these individuals have provided the Court with an updated address.

Because Plaintiffs Avery Fortner, Darnell Wint, Rigoberto Cardenas, Kevin Crocker, Joseph Howe, Arthur Nichols, Christopher Rodriguez, Jordan Gamble, and Ernest Langston have not complied with the Court's order by submitting IFP applications, prisoner authorizations, and declarations, or have failed to provide the Court with an updated address, they are dismissed from this action without prejudice under Rule 41(b) of the Federal Rules of Civil Procedure.

Raeman Heck, currently incarcerated at the Anna M. Kross Center on Rikers Island, submitted a declaration, IFP application, and prisoner authorization on June 22, 2017. Because Heck has indicated a desire to join this action, the Clerk of Court is instructed to add him as a Plaintiff.

### **CONCLUSION**

The Clerk of Court is directed to send a copy of this order to each Plaintiff and note service on the docket. Plaintiffs Avery Fortner, Darnell Wint, Rigoberto Cardenas, Kevin Crocker, Joseph Howe, Arthur Nichols, Christopher Rodriguez, Jordan Gamble, and Ernest Langston are dismissed from this action without prejudice under Rule 41(b) of the Federal Rules of Civil Procedure.

The Clerk of Court is further directed to add Raemen Heck as a Plaintiff in this action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: June 30, 2017  
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", is written over a horizontal line.

COLLEEN McMAHON  
Chief United States District Judge